

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SAINT LOUIS DISTRICT

FILED

APR - 2 1993

U.S. DISTRICT COURT
E. DIST. OF MO.
ST. LOUIS

THOMAS PATRICK CUMMINS,
Plaintiff,

vs.

DAVID A. ROBBINS,
individually and in his
official capacity,

JAMES C. CONWAY,
individually and in his
official capacity,

NESBY MOORE, JR.,
individually and in his
official capacity,

RITA M. KRAPF,
individually and in her
official capacity,

VINCENT C. SCHOEMEHL,
individually and in his
official capacity,

LIEUTENANT STEVEN
JACOBSMEYER,
individually and in his
official capacity,

CAPTAIN ROBERT BAUMAN,
individually and in his
official capacity,

DETECTIVE SERGEANT DANIEL
NICHOLS, individually and
in his official capacity,

DETECTIVE SERGEANT MICHAEL
GUZY, individually and
in his official capacity,

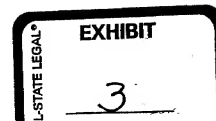
DETECTIVE RICHARD TREVOR,
individually and in his
official capacity,

DETECTIVE JOHN WALSH,
individually and in his

Cause No.

4:93CV00822 JCH

JURY TRIAL DEMANDED



official capacity,)
)
 DETECTIVE CHRIS PAPPAS,)
 individually and in his)
 official capacity,)
)
 DETECTIVE RAYMOND GHRIST,)
 individually and in his)
 official capacity,)
)
 DETECTIVE GARY STITTUM,)
 individually and in his)
 official capacity,)
)
 OFFICER ROBERT MEYER,)
 individually and in his)
 official capacity,)
 Defendants.)

COMPLAINT

Comes now Thomas Patrick Cummins, by and through his attorneys, Michael P. Bastian and Frank K. Carlson, and for his Complaint against defendants states:

INTRODUCTION

1. This action arises under 42 U.S.C. Sections 1983 and 1985 and the First, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded on 28 U.S.C. Section 1331 and 1343 subsections (1), (2), (3) and (4). Venue is proper in the Eastern District of Missouri as all acts complained of herein occurred in the City of St. Louis, State of Missouri which is located within the Eastern District of Missouri, Eastern Division. Plaintiff seeks actual damages, punitive damages, costs and reasonable attorney fees.

PARTIES

2. Plaintiff is a resident of Gaithersburg, Maryland and is a citizen of the United States.

3. At all times relevant hereto, defendants David A. Robbins, James C. Conway, Nesby Moore, Jr., Rita M. Krapf, and Vincent C. Schoemehl were members of the Board of Police Commissioners of the Metropolitan Police Department of the City of St. Louis, which was the duly appointed supervisory board of the Metropolitan Police Department of the City of St. Louis. As such it is an independent agency responsible for the conduct, training and supervision of the individual officers and employees of the St. Louis Metropolitan Police Department.

4. At all times relevant hereto, the aforesaid members of the Metropolitan Board of Police Commissioners were and are responsible by law for enforcing federal, state and local laws and regulations pertaining to the conduct of themselves and their officers and employees.

5. Defendant Robert Scheetz was at all times relevant hereto Chief of Police for the City of St. Louis. As such he was Commanding Officer of the individual officers named as parties to this action and responsible for their conduct, training and supervision. Defendant Scheetz was responsible by law for enforcing the regulations of the St. Louis Police Department and for ensuring that officers and employees obey federal, state and local laws and regulations.

6. Defendant Lt. Steven Jacobsmeyer was on April 5, 1991 and at all times complained of herein a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time the Deputy Commander of the Crimes Against Persons Investigation Bureau, assigned to the Homicide Division and was at all times complained of herein acting under color of State law of the State of Missouri. Defendant Jacobsmeyer is sued individually and in his official capacity.

7. Defendant Capt. Robert Bauman was on April 5, 1991 and at all times complained of herein a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time the Commander of the Crimes Against Persons Investigation Bureau, and was at all times complained of herein acting under color of State law of the State of Missouri. Defendant Bauman is sued individually and in his official capacity.

8. Defendant Det. Sgt. Daniel Nichols was on April 5, 1991, and at all times complained of herein, a commissioned officer an employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time a Detective assigned to the Homicide Division. Defendant Nichols is sued individually and in his official capacity.

9. Defendant Det. Sgt. Michael Guzy was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time the Supervisor of the Homicide Division. Defendant Guzy is sued individually and in his official capacity.

10. Defendant Det. Richard Trevor was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time a Detective. Defendant Trevor is sued individually and in his official capacity.

11. Defendant Det. John Walsh was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time a Detective. Detective Walsh is sued individually and in his official capacity.

12. Defendant Det. Chris Pappas was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time a Detective. Defendant Pappas is sued individually and in his official capacity.

13. Defendant Det. Raymond Ghrist was on April 5, 1991, and at all times complained of herein, a commissioned officer

and employee of the St. Louis Metropolitan Police Department and the St. Louis Metropolitan Board of Police Commissioners, and was at such time a Detective. Defendant Christ is sued individually and in his official capacity.

14. Defendant Det. Gary Stittum was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Board of Police Commissioners, and was at such time a Detective. Defendant Stittum is sued individually and in his official capacity.

15. Defendant Officer Robert Meyer was on April 5, 1991, and at all times complained of herein, a commissioned officer and employee of the St. Louis Metropolitan Police Department and the St. Louis Board of Police Commissioners, and was at such time a patrolman. Defendant Meyer is sued individually and in his official capacity.

16. At all times relevant hereto and in all their actions described in each Count of this Complaint defendants and each of them were acting under color of law and pursuant to their authority.

17. Defendants David A. Robbins, James C. Conway, Nesby Moore, Jr., Rita M. Krapf, and Vincent C. Schoemehl condoned and permitted the institutionalized practices of the officers of the St. Louis Police Department in so depriving persons suspected or accused of crimes of their rights, and they either knew or should have known of the vicious propensities of the defendant officers but took no effective steps to

control, train or supervise them, correct their abuse of authority, discourage their unlawful use of authority or discipline them.

18. All conduct of defendants upon which this cause is based was committed by them pursuant to the agreement, conspiracy, combination and confederation of all of the defendants and each of them.

FACTS COMMON TO ALL CLAIMS

19. On or about April 5, 1991, plaintiff along with Robin Kerry and Julie Kerry entered the Chain of Rocks Bridge at 10900 Riverview Blvd., City of St. Louis, State of Missouri and proceeded onto said bridge as pedestrians. While on said bridge and over the Mississippi River on said date the plaintiff and the Kerry's were assaulted by four males, to-wit: Marlin Gray, Antonio Richardson, Daniel Winfrey, and Reginald Clemons. Robin and Julie Kerry were assaulted, battered, raped and murdered by the said male assailants. The assailants robbed, assaulted, battered and attempted to kill plaintiff by forcing him to jump off of the Chain of Rocks Bridge into the water. Plaintiff survived the attempted murder and reported said crimes to officers of the St. Louis Metropolitan Police Department.

20. On or about April 5, 1991, and thereafter, the defendants participated in the investigation and prosecution of the crimes committed on the Chain of Rocks Bridge.

21. On or about April 5, 1991, defendants Jacobsmeyer, Nichols, Guzy, Trevor, Walsh, Christ and Stittum met in the

Lieutenants Office at the Homicide Division at Central Police Headquarters located at Clark Street and Tucker Blvd., City of St. Louis.

22. On or about April 5, 1991, at approximately 9:00 a.m., in an interrogation room at the Homicide Division at Police Headquarters, Clark and Tucker, City of St. Louis, in the presence of and at the request of defendants Ghrist and Stittum, plaintiff gave an audio taped statement concerning the crimes which occurred on the bridge.

23. Thereafter, on said date, defendants Trevor and Walsh interrogated plaintiff in an interrogation room and asked him to submit hair samples. Plaintiff allowed same to be taken from him.

24. Thereafter defendant Meyer interrogated plaintiff in another office at Police Headquarters.

FEDERAL CLAIMS

25. Defendant Guzy took plaintiff into a small office, told plaintiff he was a liar, told plaintiff that plaintiff had murdered the Kerrys, threatened plaintiff and attempted to coerce from plaintiff a false confession which incriminated plaintiff in the murders. Plaintiff asserted his innocence, and refused to falsely incriminate himself.

26. Thereafter defendants Jacobsmeyer, Pappas and Trevor interrogated plaintiff in an interrogation room in the Homicide Division at the Central Police Headquarters located at Clark and Tucker in the City of St. Louis. Plaintiff asserted his innocence, whereupon all three defendants

threatened and verbally abused plaintiff, and defendants Pappas and Trevor physically assaulted plaintiff at the direction of Jacobsmeyer and all three defendants attempted to coerce him into implicating himself in the crimes on the bridge. Defendants caused plaintiff to be in apprehension of bodily harm.

27. Defendants Jacobsmeyer, Pappas and Trevor intentionally struck plaintiff and twisted his head and neck, thereby causing him bodily harm and injury.

28. In the interrogations by Guzy and again by Jacobsmeyer, Pappas and Trevor, plaintiff repeatedly requested that he be permitted to have the advice of a lawyer, but plaintiff's said request for counsel was denied by defendants.

29. Defendants thereafter took plaintiff to the police video studio and told him to make a video taped confession. On the way to the video studio plaintiff refused to incriminate himself and once again asserted his innocence.

30. Thereafter, on April 5, 1991, plaintiff was arrested, booked, fingerprinted and held in custody by defendants pending application by defendants for warrants charging plaintiff with various crimes, including capital murder. Such arrest was without warrant or probable cause.

31. On April 6, 1991, at approximately 3:15 p.m., defendant Trevor acting on behalf of all defendants presented false statements against plaintiff about the crimes on the bridge to an Assistant Circuit Attorney and attempted to

secure against plaintiff charges of capital murder, which charge permits detention of the accused without bail pending trial, and which is punishable upon conviction by death by lethal injection.

32. Defendants intentionally restrained plaintiff against his will and caused the arrest of plaintiff against his will, thereby causing him damage.

33. Defendants and other persons unknown to plaintiff participated in a conspiracy to frame plaintiff for the assaults and murders of Julie and Robin Kerry and conspired to have charges for said crimes falsely brought against plaintiff in the Circuit Court of the City of St. Louis, and said defendants did conspire to deprive plaintiff of life, liberty, property and the equal protection of the laws, the equal privileges and immunities of the laws, and due process of law in violation of the Fourteenth Amendment to the United States Constitution and said defendants and unknown persons conspired to violate plaintiff's rights secured by the First, Fourth, Fifth, Sixth, Ninth and Fourteenth Amendments to the United States Constitution, all in violation of 42 U.S.C. Section 1983 and 42 U.S.C. Section 1985. Defendants committed these acts in agreement, combination, concert and conspiracy with one another in violation of the aforesaid provisions of the United States and federal laws as well as in violation of the Constitution of the State of Missouri and laws of the State of Missouri.

34. Defendants and other persons unknown to plaintiff conspired to deprive plaintiff of his civil rights enumerated above by submitting false information to the Circuit Attorney's Office and the Circuit Court of the City of St. Louis, all in violation of the aforesaid Constitutional provisions and laws of the State of Missouri and the United States.

35. Defendants and other persons unknown to plaintiff conspired to cover up their illegal acts and acts of conspiracy enumerated above and fabricated false police reports concerning plaintiff Thomas Cummins.

36. The aforesaid conduct by said defendants violated plaintiff's rights secured by the First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution, the Constitution of the State of Missouri and laws of the State of Missouri, all in violation of 42 U.S.C. Section 1983. More specifically, defendants intentionally deprived plaintiff of the following Constitutional rights under the U.S. Constitution: 1) his right to freedom of speech under the First Amendment; 2) his right to be secure in his person and property under the Fourth Amendment; 3) his right to be free from coercion and compulsion to be a witness against himself and right not be deprived of his life, liberty and property without due process of law under the Fifth Amendment; 4) his right to the assistance of counsel under the Sixth Amendment; 5) his right to be free from punishment without the benefit of a

trial by jury in violation of his rights under the Sixth and Eighth Amendments; 6) his right to privacy under the Ninth Amendment; 7) his right to a fair trial and to the equal privileges and immunities under the law and to the equal protection of the laws and the right not to be deprived of his life, liberty and property without due process of law under the Fourteenth Amendment to the United States Constitution.

37. Plaintiff suffered physical injury, threat, verbal abuse, intimidation, terror, loss of employment, lost wages, emotional distress, humiliation, loss of reputation, loss of liberty, loss of property, violation of his civil rights, pain and suffering, mental anguish, and loss of privacy, all as a direct and proximate result of the defendants' conduct as enumerated above. Plaintiff has been caused to incur special damages for medical expenses which he continues to incur to the present date in an amount as yet to be ascertained, all as a direct and proximate result of defendants' conduct.

38. Plaintiff seeks actual damages against all defendants jointly and severally in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

39. Defendants' conduct was outrageous because of defendants' evil motive and their reckless indifference to the rights of plaintiff and others, by reason of which the plaintiff is entitled to an award of punitive damages against

all defendants jointly and severally in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00).

40. Plaintiff requests reasonable attorneys fees and costs of suit pursuant to 42 U.S.C. Section 1988.

41. Plaintiff demands trial by jury.

WHEREFORE, plaintiff prays for judgment against all defendants jointly and severally, for actual damages in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), for punitive damages in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00), for costs of suit and costs of litigation, attorneys fees and such relief as is deemed just and proper.

PENDENT STATE CLAIMS

COUNT II: ASSAULT

42. Plaintiff hereby restates, realleges and incorporates by reference as if fully set forth herein the allegations of paragraphs 1 through 37 above in this Count II for assault.

43. For the assault of plaintiff by defendants aforesaid, plaintiff seeks actual damages against all defendants jointly and severally in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

44. Defendants' conduct in assaulting plaintiff was outrageous because of defendants' evil motive and their reckless indifference to the rights of plaintiff and others, by reason of which the plaintiff is entitled to an award of

punitive damages against all defendants jointly and severally in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00).

45. Plaintiff demands trial by jury.

WHEREFORE, plaintiff prays for judgment against all defendants jointly and severally, for actual damages in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), for punitive damages in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00), for costs of suit and costs of litigation, attorneys fees and such relief as is deemed just and proper.

COUNT III: BATTERY

46. Plaintiff hereby restates, realleges and incorporates by reference as if fully set forth herein the allegations of paragraphs 1 through 37 above in this Count III for battery.

47. For the battery of plaintiff by defendants as aforesaid, plaintiff seeks actual damages against all defendants jointly and severally in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

48. Defendants' conduct in battering plaintiff was outrageous because of defendants' evil motive and their reckless indifference to the rights of plaintiff and others, by reason of which the plaintiff is entitled to an award of punitive damages against all defendants jointly and severally in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00).

49. Plaintiff demands trial by jury.

WHEREFORE, plaintiff prays for judgment against all defendants jointly and severally, for actual damages in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), for punitive damages in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00), for costs of suit and costs of litigation, attorneys fees and such relief as is deemed just and proper.

COUNT IV: FALSE IMPRISONMENT

50. Plaintiff hereby restates, realleges and incorporates by reference as if fully set forth herein the allegations of paragraphs 1 through 37 above in this Count IV for false imprisonment.

51. Plaintiff seeks actual damages against all defendants jointly and severally in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00).

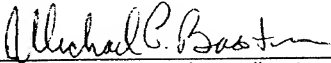
52. Defendants' conduct in falsely imprisoning plaintiff was outrageous because of defendants' evil motive and their reckless indifference to the rights of plaintiff and others, by reason of which the plaintiff is entitled to an award of punitive damages against all defendants jointly and severally in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00).

53. Plaintiff demands trial by jury.

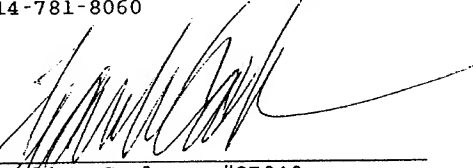
WHEREFORE, plaintiff prays for judgment against all defendants jointly and severally, for actual damages in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00),

for punitive damages in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000.00), for costs of suit and costs of litigation, attorneys fees and such relief as is deemed just and proper.

Respectfully submitted,



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